IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc 18370-M of 2007

Date of decision: 23.3.2007

Ramesh Kumar …Petitioner

Versus

State of Haryana and ors …Respondents

Present: Mr UK Agnihotri, Advocate, for the petitioner.

S.S. SARON, J (Oral).

The petitioner has filed the present petition under Section 482 CrPC for issuance of directions to State of Haryana and Superintendent of Police, Jind to conduct a fair, impartial and independent inquiry in case FIR 70 dated 13.2.2007 registered at Police Station Safidon for the offences under Sections 307/34 IPC read with Section 25 of the Arms Act. Besides, for directing respondents-2 and 3 to record the statement of the petitioner or record his statement under Section 164 CrPC, in the interest of justice.

After hearing learned counsel for the petitioner, it may be noticed that the Supreme Court in ***State of Haryana and ors v. Ch Bhajan Lal and ors*** AIR 1992 SC 604 has held that the investigation of a cognizable offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offence is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code of Criminal Procedure. Besides, the Courts are not justified in obliterating the track of investigation when the investigating agencies are well within their legal

bounds. It has been further observed that the noticeable feature of the scheme under Chapter XIV of the CrPC is that a magistrate is kept in the picture at all stages of the police investigation but he is not authorized to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of the police echelons since human dignity is a dear value of Constitution. In the present case, the petitioner is seeking the conduct of the investigation in a particular manner and nothing has been shown that the police officer has transgressed the circumscribed limits or has improperly and illegally exercised his investigatory powers in breach of any statutory provision. The question whether the statement of the petitioner is to be recorded under Section 164 CrPC, it is for the investigating agency to determine. This Court without the necessary material would not normally issue directions for the conduct of investigations in a particular manner in view of the above enunciated law.

Therefore, there is no merit in this petition. Consequently, the same is dismissed.

23.3.2007. (S.S.SARON)
ASR JUDGE